

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
APPENDIX**





# 74-2670

---

IN THE  
**United States Court of Appeals**  
FOR THE SECOND CIRCUIT

B

HESTER MAGGETT, ET ALS  
*Plaintiff-Appellees*

v.

NICHOLAS NORTON  
*Defendant-Appellant*

---

ON APPEAL FROM A DECISION OF THE  
UNITED STATES DISTRICT COURT,  
DISTRICT OF CONNECTICUT

---

APPENDIX TO BRIEF OF APPELLANT

---

CARL R. AJELLO  
*Attorney General*  
30 Trinity Street  
Hartford, Connecticut

FRANCIS J. MACGREGOR  
*Assistant Attorney General*  
90 Brainard Road  
Hartford, Connecticut

PAGINATION AS IN ORIGINAL COPY

## TABLE OF CONTENTS

Relevant Pleadings	Page
Docket Entries .....	1a, 2a
Complaint .....	3a
Answer .....	11a
Ruling on Petition for Injunctive Relief .....	13a
Order .....	18a
Motion to Correct Order .....	21a
Partial Stipulation of Facts .....	22a

## Relevant Exhibits

Defendant's Exhibit 3 .....	24a
Defendant's Exhibit 4 .....	24a
Defendant's Exhibit 5 .....	26a
Defendant's Exhibit 7 .....	27a
Plaintiffs' Exhibit A-1 .....	28a

## Relevant Testimony

Testimony Supporting Defendant's Brief .....	29a
Testimony Supporting Plaintiffs' Brief .....	42a





CIVIL DOCKET  
UNITED STATES DISTRICT COURT

Jury demand date:

H 74 205

IN LUCE CLERK

Form No. 1-70 Rev.

TITLE OF CASE		ATTORNEYS				
<p>HENRI MAGGETT, BARLINE HILL AND LURA MAXWELL, Individually and on Behalf of All Others Similarly Situated</p>		<p>For plaintiff:</p> <p>Mary R. Hennessey tel. 778-6950 Neighborhood Legal Services Inc. 524 Albany Ave. Hartford, Conn.</p>				
VS		<p>Barry S. Zitser tel. 566-0440 758 New Britain Ave. Hartford, Conn. 06106</p>				
<p>NICHOLAS MORTON, Commissioner of the Connecticut State Welfare Department</p>		<p>For defendant:</p> <p>Francis J. MacGregor tel. 566-7070 Asst. Atty General 60 Brainard Rd. Hartford, Conn. 06114</p>				
STATISTICAL RECORD		COSTS	DATE	NAME OR RECORD NO.	REC.	DISB.
5 mailed	Clerk		12-13	St of Ct. Welfare Dept. (Appeal)	5.00	
6 mailed	Marshal					
<p>is of Action: Action pursuant to Title 42 U.S.C. § 1983, seeks injunctive &amp; declaratory relief; alleges unlawful action arose at discontinuance assistance under the AFDC program. BUREAU 23 ALLEGATION.</p>		Witness fees				
		Depositions				

DATE	PROCEEDINGS	Date of Judgment
1974		
9-17	1. Complaint filed. Motion to proceed in forma pauperis Granted. Charlie, J. m 9-18. Motion for Preliminary Injunction filed. ORDER TO SHOW CAUSE, Charlie, J. m 9-18. (Hearing 9/26/74) Affidavits of Plaintiffs filed. Application for Convening of A Three-Judge District Court filed. Summons issued and together with same and copies of complaint, attested copies of motion to proceed in forma pauperis and Order to Show Cause and related papers handed to Marshal for service.	
9-27	2. Appearance of Francis J. MacGregor entered for the defendant.	
"	3. Answer filed.	
"	4. Marshal's return showing service.	
"	5. Briefs in Support of Plaintiffs' Motions for Convening of Three-Judge Court, Class Action Order and Preliminary Injunction.	
9-25	6. Notice & Motion to Intervene as a Plaintiff, Memorandum of Law in Support of the Motion, Proposed Complaint, Proposed Response & Appearance of Peter C. Hunter, filed. (City of H.H. Social Services)	
"	7. Plaintiffs' Answer to Defendant's Second, Third and Fourth Defenses.	
9-26	HEARING ON Plaintiffs Motion for Preliminary Injunction. (8) Defendants Brief in Opposition to Plaintiffs Motion for Preliminary Injunction filed. Atty. Fischer wishes to present Motion to Intervene by City of H.H. as full party Plaintiff is DENIED. Motion to Intervene as amicus curiae by City of H.H. GRANTED. Three Plaintiffs sworn and testified. Four (4) Plaintiffs witnesses sworn and testified. Affidavits of Boris Phillips, Michelle Smith, Lucenia Harris, Diane Jones & Patricia Williams filed. Plaintiffs exhibits A-1 & A-2 filed. Two (2) defendants witnesses sworn and testified. Defendants Exhibits 1 thru 5 filed. Court adjourned at 5:04 until 10 a.m. 9-27-74.	
9-27	HEARING CONTINUED on motion for preliminary injunction. One (1) defendant witness previous sworn, responses stated and testified. Inf. Exhibit 6 & 7 filed. Reply brief to be filed by Atty. Hennessey in five (5) days. Court adjourned at 2:25 p.m.	
9-27	8. Marshal's return showing service.	
10-2	9. The Defendants, Nicholas Norton's Memorandum of Law in Opposition to the Plaintiffs' Motion for Preliminary Injunction.	
10-4	10. The Defendants Supplemental Memorandum of Law in Opposition to the Plaintiffs' Motion for Preliminary Injunction.	
10-9	11. Plaintiffs' Memorandum in Response to Defendant's Supplemental Memorandum of Law in Opposition to the Plaintiffs' Motion for Preliminary Injunction.	
10-17	12. Transcript of Hearing held on 9-26-74. Collard, R.	
"	13. Transcript of Hearing held on 9-27-74. Sperber, R.	
11-5	14. Ruling on Petition for Injunctive Relief, Charlie, J. m 11-7. Copies mailed to counsel of record. (GRANTED)	
11/5	Court Reporter's Notes of Proceedings held on Sept. 26, 1974, filed in Hartford. (Collard, R.)	
11-20	15. ORDER, Charlie, J. m 11-21-74. Copies mailed to counsel of record.	
11/15	Court Reporter's Notes of Proceedings held on Sept. 27, 1974, filed in Hartford. (Sperber, R.)	
12-3	Certified copies of Order mailed to Commissioner Norton and Asst. Atty General MacGregor by certified mail.	
12-13	16. Notice of Appeal filed. Civil Management plans and Form C & D mailed to Atty MacGregor. Copies of notices filed to all counsel and U.S.C.A. Copy of notice and docket mailed to New Haven.	

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF CONNECTICUT

CIVIL NO. H 74-285

HESTER MAGGETT, EARLENE HILL,  
AND LINDA MAXWELL, Individually and  
on Behalf of All Others Similarly Situated,  
*Plaintiffs*

v.

NICHOLAS NORTON, Commissioner of  
the Connecticut State Welfare Department,  
*Defendant*

COMPLAINT

I.

PRELIMINARY STATEMENT

1. This is an action for injunctive and declaratory relief brought by three individuals, on behalf of themselves and their children, eligible for benefits under the Aid to Families of Dependent Children Program (hereinafter referred to as AFDC), a State and Federal Program designed to provide basic necessities for dependent children and their custodian relative. The action is brought against a State official who is responsible for implementing this program in Connecticut and who, in violation of Plaintiff's rights, and the class they represent, to due process and equal protection of the law, has discontinued statutorily authorized assistance to said Plaintiffs for no legally valid reason. Said State official has left tiffs with no legally valid reason. Said State official has left

said Plaintiffs with no alternative but to seek emergency assistance from local welfare departments, thereby causing such departments substantial loss of funds and intolerable administrative burdens.

## II.

### JURISDICTION

2. Plaintiffs' action for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201, 2202 and Rule 57 of the Federal Rules of Civil Procedure, which relate to declaratory judgments, and by 42 U.S.C. § 1983, which provides redress for the deprivation under color of state law of rights, privileges and immunities secured to all citizens and persons within the jurisdiction of the United States by the Constitution and laws of the United States.

3. Jurisdiction is conferred on this Court by 28 U.S.C. § 1343 and § 1331. The matter in controversy exceeds in value, exclusive of interests and cost, \$10,000.00.

## III.

### PLAINTIFFS

4. Plaintiffs Hester Maggett, Earlene Hill and Linda Maxwell are eligible recipients for benefits under the AFDC Program, and such benefits constitute their sole means of subsistence and livelihood.

## IV.

### CLASS ACTION

5. Plaintiffs bring this action on behalf of themselves and, pursuant to Rule 23(a), (b)(2) of the Federal Rules of Civil Procedure, on behalf of all other persons similarly sit-



uated. The members of the class similarly situated are all families eligible to receive assistance under the AFDC Program under Section 17-85 of the Connecticut General Statutes, and who have been receiving benefits under said Program and have been wrongfully dropped from said Program. The requirements of Rule 23 are met in that the class is so numerous that joinder of all members is impractical; there are questions of law and fact common to the class; the claims of the representative party are typical of the claims of the class; the representative party will fairly and adequately protect the interests of the class; and the party opposing the class has acted on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

## V.

### DEFENDANT

6. Defendant Nicholas J. Norton is the Commissioner of Welfare of the State of Connecticut and is entrusted under Section 17-2 of the Connecticut General Statutes with the administration of all state welfare programs, including but not limited to the AFDC Program under Section 17-85 of the Connecticut General Statutes.

## VI.

### FACTUAL ALLEGATIONS

7. Defendant is currently engaged in a redetermination of the eligibility of all AFDC recipients in the State of Connecticut.

8. Prior to this redetermination, Plaintiffs, and the class they represent, received public assistance under the AFDC Program. The State is reimbursed fifty per cent (50%) by the Federal Government for assistance provided.

9. Pursuant to this redetermination project, Defendant authorized the mailing of letters to all AFDC recipients, notifying them that they must submit to a redetermination interview on a certain date, or have their benefits discontinued. A copy of said letter is attached as Appendix C.

10. The address list used by Defendant for said letters was outdated, and known to him to be outdated. See Affidavit attached hereto as Appendix F.

11. Said letters were neither sent by certified mail nor registered mail.

12. Defendant approved of the mailing of said letters knowing in advance that approximately one out of every seven letters would never reach the recipient of AFDC benefits. See Hartford Courant Article attached hereto as Appendix H.

13. Plaintiff's Hester Maggett and Linda Maxwell received no notice of their redetermination interview. See Affidavits attached hereto as Appendix A and Appendix K.

14. As part of the AFDC redetermination project, a form letter, Form 848, is sent to all AFDC recipients who fail to respond to the original letter notifying them of said project. Said Form is attached hereto as Appendix D.

15. Many individuals who did not receive said original letter received Form 848.

16. When an AFDC recipient has had her benefits discontinued, she receives notice of this discontinuance by a letter containing Form W-52T. Said Form is attached hereto as Appendix E.

17. Form 848, Form W-52T and the original redetermination letter sent to AFDC recipients are inadequate in their

attempt to inform an AFDC recipient of her discontinuance or proposed discontinuance. See study attached hereto as Appendix G.

18. Plaintiff Earlene Hill was unable, due to her limited ability to read, to appreciate the significance of redetermination notices which she received. See Affidavit attached hereto as Appendix B.

19. None of the town welfare agencies were officially notified of Defendant's redetermination policy. See Affidavit attached hereto as Appendix F.

20. Said redetermination project is deficient in the following respects:

- a. Outdated mailing addresses were used on the original redetermination letter.
- b. The original determination letter was not sent by registered or certified mail and was not designed to reach all AFDC recipients affected by such redetermination.
- c. Defendant has made no adequate arrangements to determine if any AFDC recipient who has not submitted to an interview has actually received any notice of the redetermination policy before such individual is dropped from said Program.
- d. Form 848 and Form W-52T do not adequately alert AFDC recipients of their proposed or actual discontinuance of benefits.
- e. Town welfare agencies were not officially advised of the redetermination policy so that they could adequately prepare for the influx of individuals dropped from the AFDC Program.



21. As a result of said deficient redetermination policy a substantial number of the AFDC recipients thus far subjected to said redetermination have had their benefits discontinued. See Hartford Courant Article attached hereto as Appendix I.

22. Many of these recipients are forced to resort to emergency town welfare assistance pending their reapplication for AFDC assistance. See Affidavit attached hereto as Appendix F, and Hartford Courant Article attached hereto as Appendix J.

23. As a result of said deficient redetermination policy Plaintiffs, and the class they represent, are being dropped from the AFDC roles, or are in imminent danger of being dropped from said roles at any time without adequate notice or a fair hearing.

24. As a further result of said deficient redetermination policy, town welfare agencies are inadequately prepared to provide emergency assistance to Plaintiffs and the class they represent.

## VII.

### FIRST COUNT

25. Defendant's redetermination policy for AFDC recipients violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution, in that said policy does not provide adequate notice or a fair hearing to AFDC recipients before state assistance is terminated, and further, in that said discontinuance is wholly arbitrary and not based upon any rationally established procedure.

## VIII.

### SECOND COUNT

26. Said redetermination policy violates the Equal Protection Clause of the Fourteenth Amendment to the United

States Constitution in that it establishes a procedure whereby only the more literate of the AFDC recipients can comprehend and respond to its requirements and thus retain their benefits as against those AFDC recipients who are illiterate or unable to adequately respond to its requirements thus being deprived of their AFDC benefits.

## **IX.**

### **IRREPARABLE INJURY**

27. Plaintiffs and the members of their class have suffered and continue to suffer grievous and irreparable injury as a result of Defendant's unlawful discontinuance and threatened discontinuance of their means of subsistence and livelihood. Plaintiffs have no remedy at law available to them.

## **X.**

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, and the class they represent, respectfully pray that this Court:

1. Assume jurisdiction of this cause and convene a three-judge court pursuant to 28 U.S.C. § 2281 and § 2284.
2. Determine by order, pursuant to Rule 23 of the Federal Rules of Civil Procedure, that this action be maintained as a class action.
3. Declare and determine that the rights of the Plaintiffs, and the class they represent, as secured by the Fourteenth Amendment to the United States Constitution have been and are being impaired by the Defendant's failure to provide adequate and meaningful notice of his redetermination policy.
4. Enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining Defendant,

his successors in office, agents and employees, and all other persons in active concert and participation with him, from continuing to cause irreparable harm to Plaintiffs, and members of their class, by refusing to grant them State categorical assistance under the AFDC Program, and adequate and meaningful notice of the State's redetermination policy.

5. Enter a permanent injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining Defendant, his successors in office, agents and employees, and all other persons in active concert and participation with him, from continuing to cause irreparable harm to Plaintiffs, and members of their class, by refusing to grant them State categorical assistance under the AFDC Program, and adequate and meaningful notice of the State's redetermination policy.

6. Pursuant to Rule 54(d) of the Federal Rules of Civil Procedure, allow Plaintiffs and members of their class their costs herein, including notification costs, and also grant them and all other persons similarly situated such additional or alternative relief, including payment of all monies wrongfully withheld, as may seem to this Court to be just, proper and equitable.

*Respectfully Submitted,*

By MARY R. HENNESSEY  
*Attorney for the Plaintiffs*

By BARRY S. ZITSER  
*Attorney for the Plaintiffs*

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

CIVIL ACTION NO. H-74-285

HESTER MAGGETT, ET AL

*Plaintiffs*

v.

NICHOLAS NORTON, Commissioner of  
the Connecticut State Welfare Department  
*Defendant*

**ANSWER**

**FIRST DEFENSE**

1. Paragraphs 6, 7, 8, 11, 14 and 16 are admitted.
2. Paragraphs 1, 2, 3, 9, 10, 12, 15, 17, 20, 21, 23, 25, 26 and 27 are denied.
3. As to paragraphs 4, 5, 13, 18, 19, 22 and 24 the defendant states he has insufficient knowledge on which to form a belief and therefore he denies them and leaves the plaintiffs to their proof.

**SECOND DEFENSE**

The court lacks jurisdiction over the subject matter, because redetermination, which is federally mandated by 45 CFR 206.10(a)(9) is part of the day by day administration of the department and every recipient throughout the state is processed for redetermination in the same manner.

**THIRD DEFENSE**

Except in atypical cases, the main reasons that the plaintiffs did not get notices from the defendants is either their



failure to notify the defendant of their change of address or failure of the Post Office, a Federal Agency, to make the delivery.

#### FOURTH DEFENSE

The plaintiffs suffer no grievous loss, even if they were discontinued, because if they are eligible for AFDC, then they are immediately eligible for General Assistance. (See Sections 17-272 through 17-292c of the Connecticut General Statutes.

FRANCIS J. MACGREGOR  
*Attorney for the Defendant*

FRANCIS J. MACGREGOR  
*Assistant Attorney General*  
90 Brainard Road  
Hartford, Conn. 06114  
Tel. 566-7070



UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

CIVIL NO. H 74-285

HESTER MAGGETT, EARLENE HILL  
AND LINDA MAXWELL, Individually and  
on behalf of all others similarly situated

v.

NICHOLAS NORTON, Commissioner of  
the Connecticut State Welfare Department

**RULING ON PETITION FOR  
INJUNCTIVE RELIEF**

This is a civil rights action brought under 42 U.S.C. § 1983 and its jurisdictional counterpart, 28 U.S.C. § 1343(3)<sup>1</sup>. The plaintiffs claim that their eligibility for benefits under the Aid to Families with Dependent Children Program (AFDC) was terminated by the Connecticut State Welfare Department, under the direction of its Commissioner, Nicholas Norton, in violation of the right to due process

---

<sup>1</sup> 42 U.S.C. § 1983 provides:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

28 U.S.C. § 1343 provides in part:

"The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

\* \* \*

"(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States."

guaranteed them by the fourteenth amendment to the United States Constitution.

The plaintiffs were terminated as eligible welfare recipients, because they failed to appear for a face-to-face redetermination interview at the local district welfare office; and thereafter they failed to make a timely request for an evidentiary hearing, after having been notified that their benefits would be discontinued should they fail to appear at the redetermination interview. It is important to note that the central issue here is not the adequacy of the form of notice of the termination hearing, but rather the administrative presumption by the Welfare Department, that the plaintiff-AFDC recipients actually received the notice to appear at the initial redetermination interview and their failure to so appear in answer to the summons constituted an affirmative and knowing waiver of their claim to continued eligibility for AFDC benefits. The Court finds that, for the limited purpose of these redetermination interviews, the concept of "adequate notice" requires that the Welfare Department make an actual finding of receipt of notice, before using an individual's failure to appear as a ground for terminating their eligibility.

There is no dispute as to the desirability of maintaining a close supervision over the continued eligibility of AFDC recipients. In fact, such a periodic redetermination of eligibility is one of the pre-requisites for continued federal participation in the state-administered AFDC program<sup>2</sup>. This face-to-face interview policy was initiated by the Connecticut Welfare

---

<sup>2</sup> 45 CFR § 206.10(a)(9) states:

"Where an individual has been determined to be eligible, eligibility will be reconsidered or redetermined:

\* \* \*

"(iii) Periodically, within agency-established time standards, but not less frequently than every 6 months in AFDC, and every 12 months in the other categories, including medical assistance, on eligibility factors subject to change."

Department only after experience had disclosed that its previous methods of periodic redetermination resulted in rates of overpayment and circumstances of ineligibility, which exceeded acceptable limits established by the federal Department of Health, Education and Welfare<sup>3</sup>.

In order to alert recipients to the new procedures, the Welfare Department did make an effort to provide advance notice of both the new personal interview policy and the scheduling of individual appointments<sup>4</sup>. Notwithstanding these efforts, the Commissioner's implementation of this redetermination policy resulted in a *high* percentage of erroneous terminations, thus imposing needless hardship burdens on the individuals affected and additional administrative expense upon the Welfare Department. Once a recipient has been found to meet the statutory standards to qualify for welfare benefits as provided by law, the Court recognizes the beneficiary's right to these welfare benefits as a matter of "statutory entitlement"<sup>5</sup>. Thenceforth the individual's interest in receiving these benefits must be protected against arbitrary or unfair governmental action. The Supreme Court's declaration of individual rights in the context of the pre-termination evidentiary hearing requirement, applies with equal force to the redetermination interview situation presented here:

"For qualified recipients, welfare provides the means to obtain essential food, clothing, housing, and medical care . . . . Thus the crucial factor in this context . . . is that termination of aid pending resolution of a controversy over eligibility *may* deprive an *eligible* recipient

<sup>3</sup>Transcript, September 26, 1974, 154-159. Testimony of Teresa Brannelly Connell, Chief of Income Maintenance, Connecticut State Welfare Department.

It should be made clear, however, that the specific procedures employed by the State are not federally-mandated.

<sup>4</sup>Defendant's Exhibits 3 and 4, "Notice to Recipients" and "Notice to AFDC Recipients."

<sup>5</sup>*Goldberg v. Kelly*, 397 U.S. 254, 262 (1969).



of the very means by which to live while he waits." *Goldberg v. Kelly*, 397 U.S. 254, 264 (1969). (citation and footnote omitted; emphasis in original).

At the heart of the present controversy is the question of whether or not the Welfare Department has applied a minimal standard of assurance that lawful notice of the face-to-face interview has been received by the persons for whom notice is intended before welfare benefits are terminated. The Court is naturally reluctant to interfere with the administrative operation of any state administrative function. See, *Richardson v. Wright*, 405 U.S. 208 (1972). However, the procedural record of the Welfare Department's redetermination policy in the first three months of its existence, suggests a need for more reliable procedural protections. Of 16,474 completed cases through August 31, 1974, there were 1,940 discontinuances. A face-to-face interview was held in 492 of these cases, leaving 1,448 cases which were discontinued after the recipient failed to appear for an interview. The Department itself concedes that approximately 20 to 25% of the persons discontinued as a result of this redetermination program, immediately reapplied for the same discontinued benefits<sup>6</sup>.

The protected rights of eligible AFDC recipients can be adequately protected only if the Welfare Department is able to make a specific finding, based upon a reliable procedure, that notice of the face-to-face interview has been received. This can be accomplished by telephone or personal contact. Where such efforts are unsuccessful, the Welfare Department shall be required to use certified mail, return receipt requested, to give notice of the prospective final termination of welfare benefits<sup>7</sup>. This minimum requirement applies only to the

---

<sup>6</sup>Transcript, September 27, 1974, 15-19.

<sup>7</sup>The Court contemplates that this certified mail notice procedure will have to be utilized only in those relatively few cases in which other efforts at contacting the recipient have been unsuccessful. Where the Department has been able to make the required finding,

mailing of the termination notice, where the recipient has previously failed to respond to the ordinary first class mail notice of the redetermination interview. First class mail may suffice in other situations, but here the recipient's initial failure to appear for the interview has already raised a question as to the actual receipt of notice. Under these circumstances, reliance on the same mode of notification to inform the recipient of the final termination evidentiary hearing fails to provide the basic procedural safeguards which must circumscribe any action so vital to the family's health and welfare as the termination of welfare benefits.

The Court does not preclude the Welfare Department's developing alternative positive methods of ensuring adequate notice, which would justify a finding of lawful notice. Whatever other means are adopted, the essential requirement is that a specific written finding be made, by a responsible agent of the Department, that notice has in fact been received or that every reasonable effort to give such notice, as hereinbefore order, has been carried out. The petitioners' motion for injunctive relief is granted.

The parties will settle an appropriate order within ten (10) days. SO ORDERED.

Dated at Hartford, Connecticut, this 5th day of November, 1974.

T. EMMET CLARIE  
*Chief Judge*

---

that the recipient has received notice of the redetermination interview, resort to certified mail will, of course, not be necessary, and the Department's normal termination procedures may be followed.

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

CIVIL NO. H 74-285

HESTER MAGGETT, EARLENE HILL  
AND LINDA MAXWELL, Individually and  
on behalf of all others similarly situated

v.

NICHOLAS NORTON, Commissioner of  
the Connecticut State Welfare Department

**ORDER**

A motion for preliminary injunction having been heard and it appearing after a hearing thereon that injunctive relief should be granted, it is therefore:

ORDERED, that an injunction shall enter forthwith effective November 18, 1974, enjoining the defendant, Nicholas Norton, his employees and agents, from terminating assistance to the plaintiffs and any other persons as a class, who have failed to appear at scheduled redetermination interviews until and unless there is a specific finding of actual notice in accordance with the following procedures:

1. Notice of the welfare recipients to appear for a scheduled face-to-face redetermination interview at the local District Office of the Welfare Department may be given by ordinary first class mail.
2. An official log-record will be kept of all recipients who contact the District Office by phone or in person stating that they elect not to continue to receive AFDC benefits, and chose not to have a redetermination hearing.



(a) Those recipients who appear at the office will sign a form acknowledging that their AFDC eligibility is being terminated at their request.

(b) Those recipients who contact the office by phone and elect not to have a redeterminating hearing shall be sent a termination notice (Form 848), by regular first class mail.

3. Those recipients who do not appear in response to the notice of the redetermination interview on the scheduled interview date, and who have not previously contacted the Department as in Paragraph 2 above, shall have sent to them, by certified mail, return receipt requested, notice that action to terminate their eligibility will be taken if they do not request another interview date within ten (10) days. Said notice will also inform these recipients of their right to request an evidentiary hearing with respect to the proposed termination action.

4. In those cases where the certified mail notice is returned undelivered, a welfare worker will attempt to personally contact the recipient at the recipient's last known address.

(a) If the worker is able to personally contact the recipient, the worker will give the recipient a copy of the notice referred to in Paragraph 3 and will make a written finding of receipt of notice.

(b) If the worker ascertains that this is the recipient's correct address, but is unable to personally contact the recipient, the worker will leave a copy of the notice at the residence, and make a written finding to this effect.

5. In those cases in which the certified mail notice is returned undelivered and the Department is unable to make the finding of receipt of notice referred to in Paragraph 4, the

20a

Department shall initiate a "hold" action in accordance with the procedure normally followed in cases where the address of the client becomes unknown.

Dated at Hartford, Connecticut, this 20th day of November, 1974.

T. EMMET CLARIE  
*Chief Judge*



Dec. 13th, 1974

"Motion Granted ex parte; so ordered."

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

CIVIL ACTION NO. H-74-285

HESTER MAGGETT, ET AL

*Plaintiffs*

v.

NICHOLAS NORTON

*Defendant*

**MOTION TO CORRECT ORDER**

The defendant respectfully requests the Court to correct the Order of the Court dated and filed November 20, 1974, in the following respects:

By canceling the first paragraph which read "A motion for preliminary injunction having been heard and it appearing after a hearing thereon that injunctive relief should be granted, it is therefore:" and substituting the following: "A motion for preliminary injunction having been heard, and the parties agreeing pursuant to Rule 65(a)(2) of the Federal Rules of Civil Procedure that the hearing be considered a trial of the action on the merits, and it appearing after said hearing thereon that injunctive relief should be granted, it is therefore:" and by further inserting the words "a permanent" between the words "ORDERED, that" and "injunction . . .".

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

DOCKET NO. 74-2670

HESTER MAGGETT, ET ALS  
*Plaintiff-Appellees*

v.

NICHOLAS NORTON  
*Defendant-Appellant*

**PARTIAL STIPULATION OF FACTS**

1. Henry Ora, the plaintiffs' expert, has been the Deputy Director of the Department of Social Services for the Welfare Department of the City of Hartford since September, 1970.

2. Neither the City of Hartford's Welfare Department nor any other town welfare department received any official notice from the Connecticut State Welfare Department of the latter's new face-to-face redetermination of eligibility program.

3. This lack of notice put a burden on the City Welfare Department when discontinued AFDC recipients applied for general assistance.

4. General assistance is a welfare program which is administered by the towns pursuant to Sections 17-273 through 17-292(c) of the Connecticut General Statutes.

5. There were approximately 35,000 AFDC families on welfare in May of 1974.

6. The redetermination of eligibility program was designed to take six (6) months.

7. For the first three (3) month period of the redetermination of eligibility program, notices were sent to 17,935 AFDC families to come in for an interview. Of this amount, 16,474 cases had been processed by the end of August, 1974, and 1,940 cases were discontinued from welfare.

8. Out of the 1,940 cases discontinued, 492 were discontinued as a result of the face-to-face interview, and 1,448 were terminated because they did not appear for the interview.

9. Sidney Gardiner, a witness for the plaintiffs, is currently Director of Social Development for Greater Hartford Process, a development company in Hartford.

10. Mr. Gardiner's study of low income groups in the South Arsenal district of Hartford indicated there is a striking mobility in the City, and that it is extremely difficult through statistical means or personal contact to locate low income people once they have moved.

11. Nancy Fleming, a witness for the plaintiffs, has been employed by the Hartford City Welfare Department for seventeen (17) years and has been Director of Case Work for the last three (3) years.

12. The three-named plaintiffs, Hester Maggett, Earlene Hill and Linda Maxwell, were Hartford residents who were receiving Aid to Families with Dependent Children at the time the defendant's new face-to-face redetermination of eligibility went into effect in June, 1974.

**PLAINTIFF-APPELLEES**

By MARY HENNESSEY

By BARRY S. ZITSER

**DEFENDANT-APPELLANT**

By FRANCIS J. MACGREGOR

Dated:

DEFENDANT'S EXHIBIT 3

NOTICE TO AFDC RECIPIENTS

April 1, 1974

Beginning May 1, 1974, the Connecticut State Welfare Department will initiate a new way of redetermining eligibility in AFDC. You will be asked to come to your local District Office for a face-to-face interview 90 days after the effective date of award and every six months thereafter. If you receive Food Stamps, your Food Stamp Recertification will also be completed at this time. You will receive notice of the day, time and place of your interview well in advance so that you can make arrangements for transportation, baby-sitting or time off from work.

When you receive notice of the redetermination date, you will also receive a Redetermination of Eligibility form which you will have to complete and bring with you to the interview. In addition, you will be asked to bring documents verifying such items as income, banking or checking accounts, rent and so on. During the redetermination interview, a worker will review with you the redetermination form as well as the verifying documents.

By requiring you to come for a personal interview twice a year, the Welfare Department will not only have an opportunity to review with you your assistance payment but also discuss with you available agency services.

DEFENDANT'S EXHIBIT 4

NOTICE TO RECIPIENT

May, 1974

Sometime during the next six months, beginning with the month of May, you will receive a written notice telling



you to come to your local Welfare Office for a personal interview. At that time your continuing eligibility for AFDC, and Food Stamps if applicable, will be redetermined. The notice you receive will give the day, time and place of your interview. You may ask to have your interview rescheduled if: (1) you are employed and your employer refuses to give you the time off; (2) You are in the hospital; (3) you are ill — you must then bring a doctor's statement to your rescheduled interview. If you do not keep your appointment and do not contact the District Office, the Department will take action to discontinue your case for failure to meet the redetermination of eligibility requirement.

## DEFENDANT'S EXHIBIT 5

**NOTICE OF REDETERMINATION OF ELIGIBILITY - AFDC**  
**AVISO PARA REDETERMINACIÓN DE ELEGIBILIDAD - AFDC**  
 W 1230 7/74



Connecticut State Welfare Department  
 Departamento De Bienestar Publico De Connecticut

Date of notice  
 Día de la notificación

Your continuing eligibility for AFDC, and Food Stamps if applicable, must be redetermined at this time. If you wish to continue receiving Public Assistance, please come in for a personal interview at the time and place shown below. If you fail to keep your scheduled appointment, we will assume you no longer need assistance and the Department will start action to discontinue your case.

La continuación de su elegibilidad para la Ayuda bajo el Programa AFDC, y los cupones para alimentos si son aplicables, tiene que ser redeterminada. Si usted desea continuar recibiendo Asistencia Pública, favor de venir para una entrevista personal a la hora y sitio señalados abajo. Si usted pierde este cita agendada para usted anticipadamente, asumiremos que usted NO necesita más ayuda, y el Departamento comenzará la acción para discontinuar su caso.

**YOU MUST bring this notice and the completed Redetermination form with you**  
**USTED TIENE QUE traer este aviso y la forma de Redeterminación con usted**

TIME AND LOCATION OF YOUR APPOINTMENT  
 HORA Y SITIO DE SU CITA

Month/Mes	Day/Día	Time/Hora

(Read instructions on back)

(Lea las instrucciones en otro lado)

## INSTRUCTIONS

- A. The redetermination requirement can be met only by a face-to-face interview.
- B. You must call the District Office to have your interview rescheduled if:
  1. You are in the hospital.
  2. You are ill. (You must bring a doctor's statement to your rescheduled interview.)
  3. You are employed and your employer refuses to give you the time off.
- C. To prepare for the interview:
  1. Carefully read the enclosed Applicant's Guide to find out what information you must bring to the interview.
  2. Complete all items on the enclosed Redetermination of Eligibility form. If the amount is too small, check box 5. If the amount is too great, check box 6.
  3. **YOU MUST BRING THIS NOTICE AND THE COMPLETED REDETERMINATION FORM WITH YOU.**
- D. Please be on time. If you are late, you will have to wait to be interviewed.

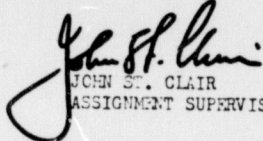
## DEFENDANT'S EXHIBIT 7

PLEASE NOTE!!

SINCE YOU HAVE MISSED YOUR APPOINTMENT DATE, YOU CAN BE GIVEN ANOTHER APPOINTMENT DATE WHICH WILL PREVENT DISCONTINUANCE OF YOUR AWARD. HOWEVER, YOU MUST CALL 566-3553 IMMEDIATELY TO REQUEST ANOTHER APPOINTMENT OR YOUR AWARD WILL BE DISCONTINUED.

FAVOR DE NOTARI!!

DEBIDO A QUE USTED NO VINO EL DIA DE LA CITA, SE LE PUEDE SEÑALAR OTRA FECHA PARA LA CITA. LA CUAL EVITARA LA DESCONTINUACION DE SU AYUDA. POR LO TANTO, USTED TIENE QUE LLAMAR INMEDIATAMENTE AL TELEFONO 566-3553 PARA QUE PIDA OTRA CITA O SU AYUDA SERA DESCONTINUADA.

  
JOHN ST. CLAIR  
ASSIGNMENT SUPERVISOR

## DEFENDANT'S EXHIBIT A-1

## NOTICE OF PROPOSED SUSPENSION, REDUCTION OR DISCONTINUANCE OF PUBLIC ASSISTANCE

Case No. \_\_\_\_\_

Date Sent by Worker \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Dear \_\_\_\_\_

This is to notify you that the State Welfare Department is proposing to:

☐ SUSPEND \_\_\_\_\_ Effective Date \_\_\_\_\_☐ REDUCE From \_\_\_\_\_ to \_\_\_\_\_ Effective Date \_\_\_\_\_☒ DISCONTINUE \_\_\_\_\_ Effective Date \_\_\_\_\_

& Food Stamps  
 your assistance because you failed to appear for  
RECONSIDERATION when summoned at

Policy Reference MANUAL Vol. I 2200 PAGE 50

If you disagree with the proposal, you may request an Evidentiary Hearing to be held  
 at the State Welfare Department Office at 250 Main St.  
 Address \_\_\_\_\_

Your request for an Evidentiary Hearing must be made in writing to the District  
 Office no later than \_\_\_\_\_  
 Date \_\_\_\_\_

If you are aggrieved because the Department proposes to suspend, reduce, or dis-  
 continue your grant or your grant was incorrectly computed, and you request an  
 Evidentiary Hearing by the above date, your assistance will continue to the end of  
 the assistance payment period in which the final decision on the Evidentiary Hear-  
 ing is rendered.

If we do not hear from you by \_\_\_\_\_ your assistance will  
 automatically be discontinued.

We are enclosing a Form for you to complete if you decide you would like an  
 Evidentiary Hearing. A self-addressed envelope is also enclosed.

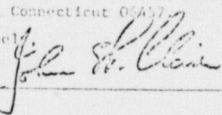
You have a right to bring with you witnesses and any documentary evidence to sup-  
 port your claim. You may speak for yourself or you may be accompanied by legal  
 counsel or a friend or other spokesman at the Evidentiary Hearing. Your request  
 for an Evidentiary Hearing does not in any way diminish your right to a Fair Hearing.

You can still request a Fair Hearing if your request is mailed within 30 days from  
 the date you receive official notice of action taken regarding your assistance.

Requests for a Fair Hearing must be made in writing, and addressed to the State  
 Welfare Department, Main Street Extension, Middletown, Connecticut 06457.

Sincerely,

Worker





T 158 (9-26-74)

Q. I show you this letter directed to Mr. Norton and I ask you if refreshes your recollection that the Health, Education and Welfare Department told the State that if they did not want to get penalized, they had to reduce their error in eligibility, is that right? A. That's right.

Q. And from what percent to what percent? A. They said it had to be reduced from five percent to three percent.

Q. And how about overpayments? A. Overpayments had to be reduced from 17 percent to —.

Q. May I see that? A. It's my recollection that it should be more near ten to eleven percent. I am not completely accurate on that.

Q. Isn't it a fact that the tolerance rate for over — . . .

T 167 (9-26-74)

Q. Did you, in fact, have two special mailings going out to welfare recipients telling them that there would be a personal interview of redetermination? A. They were mailed with their checks on April 1st and May 15th.

T 191 (9-26-74)

Q. Now, did you read the files of the three named Plaintiffs in this case? A. Yes, I did.

Q. And in fact, on the last mailing of their AFDC check, before they were given their notice to come in for redetermination of eligibility, were those checks returned or did they get and cash those checks? A. They got and cashed the checks.

Q. And the redetermination of eligibility form, did they go out in the mail to the same addresses as the last check?

A. Yes, they did.

T 180 (9-26-74)

Q. Did you anticipate that it was possible people would not get their mail? A. Yes, we did.

Q. And what was this procedure that you set up?

A. The procedure that we set up was that we had all — the notices were sent from central office, 110 Bartholomew Street, and therefore would come back to the original place, which is 110 Bartholomew Street.

Upon receipt of the return back our staff checks the master file to see if there has been an address change. If there has not been an address change, it is re-mailed. And a log is kept on each and every one with their name and address.

If the address has been changed, it is reflected to the new address and the logs do indicate that.

T 183 (9-26-74)

Q. Now, if they didn't respond to this, did you send them out what they call an 848? A. On the day of their appointment, the day that they are due in the office, at the end of that day everyone who doesn't show, as we refer to is, is sent an 848 advising them that they did not show and that they have ten days in which to have an evidentiary hearing.

If they do not respond to the evidentiary hearing, their case will be discontinued, depending upon the date.

They would have one more check before we would do that, after the ten day situation.

T 63 (9-27-74)

Q. You testified that attached to the 848 that goes out from the offices, that a flyer is usually attached. And, in fact, it tells them, the people, if they missed the appointment date, that they can be given another appointment date, which will

prevent the discontinuance of their award, and it tells them a number to call? A. Yes.

Q. And if they do this, it stops the process of being terminated; is that right? A. That's right.

Q. Is that a copy? A. Yes, it is.

T 70 (9-27-74)

THE COURT: What happened to the remainder of those 1,448?

THE WITNESS: They were discontinued — oh, what happened to them as far as procedure was concerned? They received a 848, that we were proposing a discontinuance, and that they had an effective date of that discontinuance, depending upon their appointment date.

When that date came, they were sent an authorizing document, called a 52-T, in fact, discontinuing them.

They did receive notice, and in fact, a check, after the 848 proposing the discontinuance — at least one check.

T 17 (9-27-74)

I can give you a percentage based on this study, which I think is accurate enough. Time did not permit us to get every single District. Between 20 and 25 percent of people who are discontinued as a result of the redetermination process re-applied.

T 211, 212 (9-26-74)

Q. Okay. So, 1,043 of the 1,447, for one reason or another — A. Right.

Q. — which we are not concerned with here, was not interviewed pursuant to the redetermination policy?

A. Called or walked in, however. They could have walked in.

Q. How many of them called? A. I know you're finding it hard to accept my 30 figure, but many, many, many called.

Q. What did they say? Did they say we don't want our benefits anymore? A. My husband is home —

Q. Or did they say to you — A. I am answering your question.

Q. I'm sorry. A. My husband is home, I'm now working, I'm moving out of state; many moving out of state's. These are the various —

T 181, 182 (9-26-74)

Q. Now, do you know how many returns you got out of the 5,654? A. Yes, I do.

Q. And how many was that? A. 237.

Q. Now, did you check out those 237? A. Yes.

Q. What did you find out? A. We found out that 51 were what we determined as questionable. Our address was the same in central office as the address on the check. So we sent those to the districts and asked the districts to report back to us. And they found that 21 of the 51 — and we collaborated this — were discontinued from the time that we sent the original. The 52 authorizing it was on route to discontinue, 21 of those 51.

Q. In other words, they were discontinued for other reasons? A. Right. The other 30 were resolved by calling the client at the District level.



Q. In other words, you sent them down to the District and told them to contact these people by phone? A. Right.

Q. How about the other 186? A. The other 186 were remailed from central office.

Q. And what happened to these? A. And 34 of the 186 came back again, and those 34 were sent to the District for verification and collaboration. So that we have to account for every single person on our list.

T 190 (9-26-74)

A. On June 20th, we mailed 6,014.

Q. And how many returns did you get? A. 205.

Q. And of those 205, what happened? A. 37 of the 205 were returned to the District for followup verification. That follows that 51 figure I gave you earlier.

These are the situations where the addresses, everything looks appropriate in central office, and we found out 17 of the 37 were discontinued, that being —

Q. For other reasons? A. Yes, right. The authorization was on its way, a client initiated this kind of a thing.

The other 20 were left with the District, with them to report back to us — which, in fact, they do, to clarify this and reschedule.

Q. And how about the other 168 of that?

A. We remailed the other 168 again from central office. And eight of the 168 were returned to central office for the second time. And they were returned to the District for follow-up and accountability to us.

T 195 (9-26 74)

A. On July 19th, 6,267 clients were sent interview appointments.

Q. And this is for the whole State, is that right?

A. Entire State.

Q. How many came back as undeliverable? A. 195.

Q. And did you check out these to see what the problem was? A. Yes. 79 of the 195 went back to the Districts for followup verification because the records in central office agreed with our appointment notice.

37 of the 79 were discontinued, the discontinuing authorization being en route to central office in the District.

Q. What did you do with the other 116? A. 116 were remailed from central office for the second time. And 14 of the 116 came back a second time and they were sent to the District with accountability to us.

T 187, 188 (9-26-74)

Q. Back in June, July and August — I'm sorry — back from March through August of '73, what was the average monthly rate of termination of AFDC recipients in the State?

A. 783 — pardon me. March —

Q. March through August, for a six month period?

A. 794.

Q. Now, as a result of this redetermination of eligibility, did this increase? A. Yes, it did.

Q. How much did it increase to an average?

A. About 250 more.

Q. As much as that or less than that? A. Well, let's be specific.

Q. What was the average figure? A. 1024.

T 193 (9-26-74)

Q. Is one of the purposes of General Assistance to give the same scope of welfare benefits the State would give if the person for any reason whatsoever is discontinued from ADC and has to reapply? A. Yes.

T 12 (9-26-74)

Q. Okay. Now, what emergency assistance does the Department of Social Services provide to these individuals by way of rent? A. Our assistance is exactly the same as State assistance. It is based on the flat grant.

T 193 (9-26-74)

Q. And does that figure 80 agree with any figures you have, or do you have a different one? A. I had a figure of 77.

Q. And was that a hand count? A. That was a hand count by name and date.

Q. And did that include the three Plaintiffs in this case?  
A. Yes, it did.

Q. Do you know how many notices were sent out in the Hartford District Office through the end of August?

A. Yes, I do.

Q. I show you this. Would it be fair to say that it is quite close to 3,900?

T 194 (9-26-74)

A. Yes, it is; 3,973.

Q. Would you give the figure? A. 3,973.

THE COURT: Excuse me.  
Within what period of time?

THE WITNESS: Three months.

Q. Through the end of August, is that right?

A. Through the end of August, from the start of the project.

THE COURT: All right.

Q. And does the figure show that these 77 people were discontinued at various dates from June? A. Yes, it does.

Q. Up through the end of August? A. Yes.

T 28, 29 (9-26-74)

Q. Now, you testified that when these people come in, you meet their needs within one to three days, is that right?

A. That is correct.

Q. And if you can't meet them the first day, you send them to the Salvation Army? A. If there's a dire need for food, yes, we do.

Q. All of these 80 families you took care of within this time, is that right? A. That is correct.

T 27 (9-26-74)

Q. All right. Does the City of Hartford discontinue people off the General Assistance? A. Yes, they do.



Q. And how do you notify them? A. How do we notify them?

Q. Yes. A. Through mail.

Q. Certified registered, or just First Class Mail?

A. First Class.

Q. Do you consider that an adequate method of notifying them? A. Yes, I do.

T 199 (9-26-74)

Q. You had experience that the Welfare Department normally uses First Class mail for everything? A. Yes, I did.

Q. I'm not asking you whether this is the best system, but based on your own experience, your experience going down to the City of New York seeing how that worked, discussions with other merit system employees, is this a reasonable and rational method of handling redetermination of eligibility? A. Yes, it is.

T 172 (9-26-74)

Q. (By Mr. MacGregor) Welfare checks that go out to recipients, they go out First Class mail, is that right? A. Yes, they do.

T 52 (9-26-74)

Q. (By Mr. MacGregor) The April 1st, '74 welfare check — did you get it? A. I would say so, yes.

Q. And, in fact, did you get your May 15th, 1974 welfare check? A. I would say so, yes.

T 70, 71 (9-26-74)

Q. Let me ask you, Mrs. Maggett, you got your April 1st, 1974 check, didn't you? A. Yes.

Q. On May 15th, did you get your May 15th, '74 welfare check? A. Yes, I did.

T 59 (9-27-74)

Q. Now, in the case of the three named Plaintiffs in this case, did they or did they not get the rent check that was due them immediately prior to the delivery to the same address of their notice to come in for redetermination? A. Yes, they did.

Q. Did they get that check that came in? A. Yes, all three did.

Q. And that check would not be more than 15 days before the notice to come in for redetermination, because the checks go out twice a month, or in a 15 day period; is that right?

A. That's right.

T 73 (9-27-74)

THE COURT: And do you know whether or not these same three Plaintiffs did receive a check following this notice having been given?

THE WITNESS: Yes, they did receive a check following this notice.

T 73 (9-27-74)

THE COURT: None of the mail from any of these Plaintiffs was returned to your office, if you know?

THE WITNESS: I do know that none of the mail to these Plaintiffs were returned to our office in connection with that.

T 73 (9-27-74)

THE COURT: If they came in, in this instance here, showing you Plaintiffs' Exhibit A-1 — if they came in between August 7th and August 16th, after receiving that notice, as I understand it, they would not be terminated at all?

THE WITNESS: That's right.

T 58 (9-26-74)

Q. What do you do, have little postal mailboxes in the hall? A. Yes.

Q. Or on the outside? Which? A. In the hallway.

Q. The hallway; vestibule, the hallway? A. Right.

Q. You have no trouble getting your mail ordinarily? You get it regularly? A. Well, once I had a letter that was opened that I had gotten from my sister.

Q. But ordinarily, you get it all right? A. Yes, yes.

T 153 (9-26-74)

Q. What was the weakness in the old telephone system, of using the telephone for redetermination of eligibility?

A. There were several weaknesses.

Q. What were they? A. The very first weakness was that the attempt was made to reach a client by phone. Clients are mobile; they go grocery shopping, getting their children, and so on. It was unsuccessful and/or they did not have a phone.

T 31 (9-27-74)

Q. Why was the decision made to send out Exhibit 5 to AFDC recipients by First Class mail, as opposed to Certified

or Registered mail? The decision was made because the clients' checks were sent by First Class mail. And our experience is that the clients get their checks. Therefore, logically, they should get their notice of appointment.

T 33 (9-27-74)

Q. Has it been the experience of the Department that when Registered mail is used, that it has a better chance of getting received by an AFDC recipient than First Class mail?

A. The Department's experience is that very often the client will not sign or accept.

THE COURT: I think she answered: A lot of people, particularly in that walk of life, if they get a Registered letter, they figure it is trouble, and they leave it in the Post Office box, and won't go near it, or sign for it.

Isn't that the answer?

THE WITNESS: Oh, yes.

T 39 (9-27-74)

Q. This is an assumption, or do you have personal knowledge? A. I have personal knowledge that the computer updates addresses.

Q. How does it update it? A. By means of a 52-T that comes to the central office, that the keypunch operators keypunch. It comes to our central —

T 60 (9-27-74)

Q. Isn't it true that in your experience as a welfare worker that if you went down to the welfare recipient's home and told them to come in, that you would still get a percentage of people who wouldn't come? A. Yes, it is my experience.



Q. And nothing would happen until the check didn't get to them? A. That is my experience.

Q. And that is the time they start to complain; is that right? A. That's right.

T 60 (9-27-74)

Q. Could you go around and give notice to persons — notice to 35,000 recipients that we are now going to have a re-determination? Go to their house say will you please come in? Do you have the cars and the personnel to do this? A. We do not have the cars and personnel to do that.

T 207 (9-26-74)

THE COURT: At the present time, of this number, 1,447 who were discontinued, how many of them were ultimately discontinued for the sole simple reason that they didn't appear?

THE WITNESS: And didn't call, your Honor. You mean just didn't bother with us at all? We have a manual count and I say it's 30. We hear from them, they say forget it.

T 57, 58 (9-27-74)

Q. There is talk about 25 per cent of the people discontinued, which I would imagine would be about 400 people that reapplied. In your own experience, during your years as a welfare worker, don't you have quite a few people that get discontinued, either through carelessness, some change of circumstances, or that change back immediately — the husband has been ordered to pay for a divorce, and the woman expects that he is going to pay alimony and support, and he doesn't? All these circumstances come in, and there is always a rapid change of people reapplying? A. Yes, it is my understanding.

T 3, 4, 5, 6 (9-26-74)

THE WITNESS: Henry O. Ora

Q. During the last six weeks, have any Hartford AFDC recipients who have had their benefits discontinued pursuant to this redetermination policy contacted your Department?

A. Yes.

Q. Approximately how many families? A. 80.

Q. What is the average family size for, say, the average AFDC recipient? A. Approximately four.

Q. So we are talking about somewhere in excess of 300 individuals that have contacted your office?

THE COURT: 300 that have been affected by it?

MR. ZITSER: 300 that have been affected so far.

Q. Are AFDC recipients who have had their benefits discontinued under the present redetermination policy still contacting your Department? A. Yes, they are.

Q. And what is the condition of most of these families when they contact the Department of Social Services?

A. They are without funds.

Q. Do they have any savings? A. No, they don't.

Q. Do these families usually contact the Department of Social Services on the first day that they do not receive their State AFDC check? A. No, they don't, because they usually wait several days and they have to check with the State, if they can get hold of the State Social Worker, to see what happened to the check. And after they find out that they were discontinued, then they contact our Department.

Q. And sometimes how long does this take, this whole process, before — A. It could take anywhere from one day to two weeks.

T 7, 8 (9-26-74)

Q. What type of aid does the Salvation Army provide to these individuals pending the interview that they received from your Department? A. They will give them a small food voucher.

Q. How small? A. Five to ten, depending on the size of the family.

Q. Does the Salvation Army provide these individuals with any rent assistance? A. No, they don't.

Q. What about clothing assistance? A. No, they don't.

Q. Utilities? A. No.

Q. Gas? A. No. Just food.

T 14, 15 (9-26-74)

Q. Did you have any conversation with any official of the State Welfare Department concerning the redetermination policy? A. Yes, I did; with Henry Boyle.

Q. Approximately when did you have this conversation with him? A. Middle of August.

Q. Was it a personal confrontation or was it over the phone? A. It was over the phone. I called him.

Q. Could you briefly describe this conversation?

A. I basically asked him how come so many of the AFDC clients who had been discontinued had not received a notification to appear for a redetermination hearing.

THE COURT: Who was this man, again, you talked with?

THE WITNESS: Henry Boyle. He's the Deputy Commissioner for State Welfare.

Q. (By Mr. Zitser) What did he respond to that question?

A. He explained to me that one of the reasons could be that the computer lists were made out approximately two months ahead of time for this particular redetermination mailing, and there might be a possibility that some of the addresses that had changed had not been entered into the computer.

T 32, 33, 38 (9-26-74)

Also we are talking two different types of case loads. We're talking about General Assistance case loads which are seen by the workers quite often.

Q. Well, do you make any effort to have personal contact with these individuals if, in fact, they don't respond to their First Class mail? A. Yes, we try.

Q. What type? A. Phone calls.

Q. You mentioned that these individuals have regular contact with their case workers? A. Right.

Q. So that they have an up to date address? A. That is correct. Because our checks, most of the checks are issued on a weekly basis.

Q. In other words, the Department of Social Services makes an effort through personal contact to keep itself fully apprised of the most current address of these individuals, is that correct? A. Well, first, another thing too is like I mentioned before, at that point, we might stop their assistance. However, our checks basically go on a weekly basis.



Now, if this person now does not get his check next week, for instance Tuesday, he will immediately contact his worker. And at that point, we can also set up a determination hearing, or if circumstances have changed to the point where no hearing is needed, we can again immediately from the same point continue assistance.

T 45 (9-26-74)

Q. Miss Maxwell, did you get a notice from the State Welfare Department telling you to come in for an interview?

A. No.

Q. Did you get a notice from the State Welfare Department telling you that you had the right to ask for a hearing because you were being discontinued? A. No. All I have was a form telling me that I was discontinued. When I went back to the State, the State, you know, didn't do anything.

T 47, 48, 49 (9-26-74)

Q. The State Welfare Department was supposed to notify you when you could go back to apply for benefits? A. Yes.

Q. And you haven't heard yet? A. Right.

A. Right now I'm waiting on the State. I think they're investigating my case, or something like that. And I haven't heard from them yet.

Q. Did you go on the 19th? A. Yes, I went on the 19th.

Q. You went in on the 19th? A. Yes.

Q. So they are investigating your case to see whether you can go back on assistance? A. Right.

T 57, 58 (9-26-74)

Q. Do you know of any reason why you didn't get this notice, of your own knowledge? Do you know why you didn't get this notice of this confrontation hearing, the face-to-face hearing that you were supposed to show up at but didn't appear? A. The way I understand it is that they supposed to

send me an IBM card in there with a yellow determination paper stating what day I should come in, you know.

But I did not get that, you know. I didn't get the appointment to come in with these determination papers.

Q. I see. You claim it didn't come; you didn't receive it?

A. Right.

T 63, 65 (9-26-74)

THE WITNESS: Hester Maggett.

Q. Did you receive from the Welfare Department a notice that you were to go in for an interview? A. No.

T 65, 66 (9-26-74)

Q. When were you first aware that you were not getting any help? A. Well, the 1st, it didn't come the 1st day.

Q. You're saying the 1st of August? A. August.

Q. You didn't receive a check. What did you do then?

A. So I called the same day and they say I'll get it twixt Monday.

So Monday I didn't get it. So I called again. And so they tell me I had to come down.

So then I went down there and talked to them. Then I had to went back the next time.

T 67, 68 (9-26-74)

Q. Miss Maggett, have you since been put back on State welfare? Are you getting help now? A. The 15th they send me — on the 16th they send me a check for the 16th.

T 76, 77 (9-26-74)

THE WITNESS: Earlene Hill.

A. No, it's never stopped before.

Q. Has it been stopped now? A. Yes.

Q. When was it stopped? A. I think it was the 1st; it stopped at the 1st. I didn't get no check. And then at the 16th, I didn't get any.

Q. Did you know why you didn't get a check? A. They said they sent me out a piece of paper they said they sent me out in the mail. And I didn't receive it, I didn't ever get it.

Q. And you told them that? A. Yes.

Q. And have they begun helping you again, or are you still not getting help from the State? A. I'm not getting no help from the State, but I'm getting some from the City.

Q. The City is helping you? A. Yes.

Q. And do you have an appointment to go back to the State to be seen? A. Yes.

Q. When is that? A. Sometime next month.

T 105, 106 (9-26-74)

THE WITNESS: Nancy P. Fleming.

Q. Are you familiar with the term "subsistence level"?

A. Yes.

Q. Could you please explain what this term means?

A. Well, subsistence level would mean that that would be the minimum that an individual could survive on.

T 106, 107

MR. ZITSER: I'm asking what the total number of applications for AFDC benefits through the Department of Social Services was during last year for the period of June through August.

A. For three months?

Q. Yes. A. It was averaging approximately in the 230's a month. Those were pending applications or either granted applications during the month. So that would be about 700 cases.

In September of 1973, we had active or pending during the month AFDC cases in September of '73, 231.

Q. Okay. During September of 1974, how many applications have been made through your Department for AFDC benefits? A. We have active with us as of this morning 494 cases during the month of September which have been receiving assistance from us sometime during the month.

Q. So this is almost double the number for September of the previous year, and September is not even over yet?

A. Right.

T 108 (9-26-74)

THE COURT: How many new applications did you get directly, that you attribute directly to this present problem during September?

THE WITNESS: Since August, there have been 80 cases.

T 113, 114 (9-26-74)

Q. Now, you mentioned before when you were talking about subsistence level that many of these families that come to the Hartford Department of Social Services who have had their AFDC benefits terminated are living from hand to mouth, am I correct? A. Yes.

Q. What is the approximate amount of time that these individuals might wait before contacting your organization after having not received their check, their State check?

A. Well, I would say it could vary anywhere from, you



know, a day to a week, or even longer — depending on how long it would take them to determine if they weren't going to get their State check.

Q. Many of these individuals hungry? A. I would assume that they are, because I don't really see how they could be able to save anything from the flat grant that is allowed.

Q. In your opinion — A. I couldn't.

Q. Let's assume that an individual is eligible for AFDC benefits and has been receiving those benefits for a time and doesn't show up for an interview, contacts your Department, then reapplies.

In your opinion, does this disruption generally result in a grievous injury to this family?

A. I would feel that if they had — if they were without a medical card, or at the beginning of the month without food stamps and without any money, for three days, that would be pretty detrimental on a family.

Q. So even though they can turn to the local welfare or town welfare agencies, if they are wrongfully denied AFDC benefits, there is still a serious disruption in their lives?

A. I would say that there is.

T 120, 121, 122 (9-26-74)

Q. Now, from your experience with the Department for 17 years, do I understand it is your opinion that First Class mail is customarily a satisfactory method of notifying the recipients that they are desired to be interviewed at your office? A. No, I would say it would not be, sir. I would not feel that it would serve. As a first mailing maybe, yes. But if the response did not come in, then I would say that we should go for a Registered mailing.

Q. How do you distinguish between the particular notice of the State and the particular notice of your office that you now think proper? A. Well, we most likely have seen that individual in the past week and they have been informed that we are going to send them this notice. It's not just sent to them —

Q. So it is your claim that when you mail with this same kind of notice, it has always been preceded by some kind of educational contact by the caseworker indicating to the recipient that in the event the issue ever arises concerning their eligibility, they will be notified to appear for a hearing?

A. They will be, and it usually has not only been interpreted to them through the worker, but they have access to the supervisor for an appeal before the termination letter is sent out and they also have appeal to administration.

Q. When the termination letter is sent out, if I understand you correctly, and they fail to appear, you do terminate?

A. We would terminate, yes.

Q. Without any further supplemental notice by Registered mail and without any further supplemental personal face-to-face contact by the welfare worker, is that correct?

A. That's correct.

T 130, 131 (9-26-74)

Q. Mrs. Hill, what is your relationship to Earlene Hill?

A. That's my daughter.

Q. And do you see the mail that comes into the house addressed to her? A. Yes.

Q. And did you see a notice addressed to Earlene advising her that she had to be at the State Welfare Department for an interview on a certain date? A. No.

Q. And did you receive a notice from the Department telling Earlene that she was going to be discontinued, but

A. Yes.

T 149, 170 (9-26-74)

THE WITNESS: Theresa Brannelly Connell.

THE WITNESS: What it did is the first mailing told them effective May 1.

MRS. HENNESSEY: The first mailing said May 1st?

THE WITNESS: Yes. The second mailing said sometime -- well, you have it in your hands, so that you have the exact wording.

T 175 (9-26-74)

THE COURT: You are going to get to that. All right.

Was this sent out with their check or was it sent out in a separate mailing?

THE WITNESS: It was sent out in a separate mailing.

THE COURT: Why wasn't it sent with the check, in view of your comment that when it came with the check, it was usually read because it was something important -- or words to that effect?

THE WITNESS: Because it has to do with the bloc involved. We are touching about six thousand per month, expecting to finish at the end of December. So that everything couldn't be sent at once.

T 206 (9-26-74)

Q. Okay. What's the ultimate no-show out of the 1,447?

A. 30 people.

A. Okay. 20 percent of the entire — between 15 and 20 percent of the entire people who originally get their appointment don't show up.

T 207 (9-26-74)

THE COURT: At the present time, of this number, 1,447 who were discontinued, how many of them were ultimately discontinued for the sole simple reason that they didn't appear?

THE WITNESS: And didn't call, your Honor. You mean just didn't bother with us at all? We have a manual count and I say it's 30. We hear from them, they say forget it.

Q. (By Mr. Zitser) You mean out of the 1,447 people who had their benefits discontinued, 1,417 showed up for an interview? A. No, I did not say that. They call us up and tell us we don't need it, forget it. We hear from them.

Q. So, in other words, of these 1,447, your manual count is that only 30 people did not either call you up and say we didn't need the benefits or didn't show up for an interview, am I correct? A. That is my manual count.

T 213 (9-26-74)

Q. But I was wondering, is it possible, Mrs. Connell, that for tomorrow the State Welfare Department can determine how many of the 1,043 who called, how many of these who called said we don't want out AFDC benefits anymore; how many of these who called said we would like to reschedule a new appointment; and how many of these 1,043 walked in and said I don't want the benefits; or how many of them walked in and said please reschedule an appointment for me.

Do you think that's possible?

A. Let me answer this question. We know how many had an interview, we know how many did not have an interview.



We also know, for various reasons those 793 fall into the same category; people go to work —

Q. But didn't you just say 30 people didn't show up, you didn't have any word from? So that means you must have had word from — A. That's right. That's what I'm testifying to.

Q. — from the other 1,013, right? A. Right.

T 214 (9-26-74)

THE COURT: The very simple question would be: Do you have a breakdown of the various categories affecting these people who, for one reason or another, did not appear for an interview.

And if so, how are those categories broken down. And if there is such a document or documents, would they be available tomorrow.

MR. ZITSER: Your Honor, I might just —

THE COURT: Well, that's a simple question.

THE WITNESS: Can I answer those?

THE COURT: Yes, please.

THE WITNESS: No, we do not have a specific breakdown. No, those documents could not be available tomorrow.

T 215 (9-26-74)

Q. In fact, better yet, I don't know why I chose 1,043 because there was 1,447 who had their benefits terminated pursuant to the redetermination policy.

Why don't you change that to 1,447 who had their benefits terminated pursuant to the redetermination policy, how

many of these individuals signed or provided you with some written document saying terminate my benefits, I understand everything, or what not? A. Document in hand. 404.

Q. 404. A. The others were telephone calls. We asked them to put it in writing. We are following all those up.

T 6, 7, 9 (9-27-74)

A. Because I think yesterday my arithmetic and my understanding of what you were asking was wrong.

The total discontinued was the 1,940. The total who had an interview and were terminated was 492. And the total who did not have — well, did not have an interview by the redetermination staff, they may well have had an interview by some other interim staff. But the redetermination staff did not have an interview with them, and their case closed either because of that, or was in process — 1,448.

Q. Of these 1,940 cases, how many written statements do you have recognizing in some form that the benefits have been terminated? A. 492.

T 7 (9-27-74)

Q. So you do not have any written statement from the 1,448 families who have their benefits discontinued, but did not have an interview, an official interview? A. We have some additional statements. I cannot testify as to how many. These I know we have. This is what I testified for sure yesterday.

T 11 (9-27-74)

Q. What does that 30 figure represent? A. That 30 figure, manual count, represents the clerk's computing of Code 3, that was no show, who now shows up as a Code 9. The same name.

T 11, 12 (9-27-74)

Q. Do you have any idea of how many of the 1,448, who did not have an interview, actually received notice? A. I know that all received initial notice of interview.

Q. All? A. By the system that I explained yesterday.

Q. All right. Including the two witnesses that you yesterday, who testified that they didn't? A. Right.

Q. They received it? A. Our system indicates that they did receive it.

Q. Your system? A. Yes, it does. By name and number. The mailing, the accounting for it every day. It was not returned by the Post Office in three instances.

Q. Of these 1,448 families who were discontinued without an interview, how many of these families either telephoned your office, or contacted your office — being the State Welfare — personally, stating that they did want or desire their AFDC benefits? A. I do not have an exact figure. I testified yesterday that it was a very large percentage.

T. 13, 14 (9-27-74)

Q. How did you arrive at this statement, or your conclusion, that many of these 1,448 families did contact, by phone or personal visit, the State Welfare, to inform them that they did not want or desire their benefits? A. I have interviewed every assignment supervisor in the State who has told me that he or she has received these calls. While I was interviewing them, in many instances, these calls came through.

I personally received none.

T 39 (9-27-74)

A. Whomever the programmer head is.

Q. What about the mailing in July? When did this mailing go out? A. The mailing in July went out July 19th.

Q. What address list was used for that mailing?

A. June 1st — on payroll, June 1st. My interpretation

...

T 65 (9-27-74)

Q. So when you stated that she got retroactive benefits, for all the benefits she missed, you were wrong. She didn't get retroactive to August 1st, did she? A. She got retroactive to August 14th. And Welfare was reimbursed from August 1st. She got help from August 1st, the date she went into City Welfare.

T 67, 68, 69 (9-27-74)

THE COURT: What I was interested in, getting back to your testimony yesterday, you ended up stating that ultimately only 30 did not turn up to appear at the office.

Would you recapitulate that, in light of your new figures today, to see how they compare, so that there will be no confusion about different figures on different dates?

THE WITNESS: Right. The 31 figure was the manual count that I testified to this morning, which was not a regular count. It was a clerical kind of thing.

THE COURT: Suppose we go down here with the correct figures, to compare with what we had yesterday and what we have today.

THE WITNESS: All right.



THE COURT: There was a total of what, 17,935?

THE WITNESS: That were sent out.

THE COURT: That were sent out.

Of that number, how many were discontinued?

THE WITNESS: 1,940.

THE COURT: And of that 1,940, how many of them were discontinued because they did not respond to the notice? If you know?

THE WITNESS: The 1,448 includes those who did not receive notice, and those who called us, or in any other way their case was to be discontinued. They, in fact, did not have an interview. 1,448 did not have an interview with the re-determination staff.

THE COURT: And they had no interview for two different reasons: One part because they called in and said they desired to be discontinued, and another part because they received no notice, allegedly?

THE WITNESS: Allegedly.

THE COURT: Or didn't respond?

THE WITNESS: Right.

T 69, 70 (9-27-74)

THE WITNESS: We sent — the ones that did not appear, we sent the — to begin with, your Honor, the 17,935 were sent notices.

When the days came for their redetermination to be done, and they did not show, or they called, or for some other

reason they went to work — whatever they did — they did not have an interview. That was 1,448.

492 of the discontinued cases came to the District Office and talked about their situation; kept their appointment, and they were discontinued.

THE COURT: What happened to the others?

THE WITNESS: The difference between 16 and 17,000?

THE COURT: No, the 1,448 and the 492.

THE WITNESS: That becomes — if you add those two figures together, it becomes 1,940. You see, I broke down total discontinuances into two parts. One who actually came in, and those who did not.

THE COURT: What happened to the remainder of those 1,448?

THE WITNESS: They were discontinued —

T 71, 72 (9-27-74)

THE COURT: I am primarily interested in how many were discontinued solely because they didn't respond. We know that there are 492 that did respond, and they were discontinued. How many were affected by discontinuance simply because they didn't respond to your notice?

THE WITNESS: I don't have exact information, your Honor. That information could be obtained by researching the records, and we could get it for you.

THE COURT: How did you get down to this 30 figure that you gave yesterday?

THE WITNESS: From a clerical count, you know.

THE WITNESS: It shows that 31 people on the printout, since the system started — well, during July and August — were originally a no-show. And then they became discontinued without an interview. They went from Code 3 to Code 9.

And I had them put in parentheses, originally a 3. And it really isn't an accurate kind of thing.

T 77 (9-27-74)

THE COURT: On a mass basis? But, my point is, for those who didn't show, as you put it, for those who didn't show, would the next step, instead of termination, would it be in order that a notice would go out, instead of terminating them, that their next check would be withheld, pending re-determination at the office, the District Office?

THE WITNESS: That would be 20 percent of everyone. 20 percent of the 17,000, which is very large.

The end result of that is that the people who don't show get their checks. The person who is to be discontinued gets an additional check, even after the ten days.